



# *Environmental Compliance Survey Report*

*Prepared for*

*The Federal Bureau of Prisons  
FCI Cumberland*

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# Environmental Compliance Survey of Federal Bureau of Prisons

## FCI Cumberland

Performed By Archer Inc.

### ***I Executive Summary***

- A. An environmental compliance survey was conducted by Archer Inc. for the Federal Bureau of Prisons; FCI Cumberland, Allegany County, Maryland. Jay Collert performed the survey for Archer Inc. Representatives from the Bureau of Prisons were Robert Scinta, Subash Puri, Lew Bacchieri, Toni Ortega-Bradford, and James Marchetti.
- B. The survey was conducted February 7-8, 2007 at FCI Cumberland, in Cumberland, Maryland. The institution is located in Allegany County in western Maryland, 130 miles northwest of Washington, DC and 6 miles south of Interstate 68, off State Route 51 South.
- C. The Federal Correctional Institution (FCI) in Cumberland houses medium security male offenders. The FCI has an adjacent minimum security satellite camp that houses male offenders.
- D. According to the pre-survey information data sheet submitted prior to the survey, and the BOP website, FCI Cumberland has a staff population of 289 and an inmate population of approximately 1,405.
- E. The survey was performed using state and federal-specific protocols dated December 2006. Survey findings are categorized into the following areas:
  - a. Priority 1: Areas with actual or potential immediate harm to human health or the environment, potential for significant liability, or other potential to inhibit the institution from meeting its mission or the mission of the Federal Bureau of Prisons.
  - b. Priority 2: Regulatory findings that are not Priority 1. These include Federal and state laws, regulations, and applicable Executive Orders.
  - c. Priority 3: Non-regulatory findings that are not Priority 1 or Priority 2.
- F. FCI Cumberland is located in Maryland and applicable protocols for that state were used. Items that have no state equivalence or when the state incorporates by reference the Federal requirement, the Federal citation is indicated and used. The compliance areas surveyed and a summary of findings in each of the different levels are as follows:

1. Air Emissions
  - a- Priority 1: - 0
  - b- Priority 2: - 6
  - c- Priority 3: - 0
2. Water Quality
  - a- Priority 1: - 0
  - b- Priority 2: - 0
  - c- Priority 3: - 0
3. Waste water Quality
  - a- Priority 1: - 0
  - b- Priority 2: - 0
  - c- Priority 3: - 0
4. Hazardous Waste Management
  - a- Priority 1: - 0
  - b- Priority 2: - 2
  - c- Priority 3: - 0
5. Universal Waste/Used Oil Management
  - a- Priority 1: - 0
  - b- Priority 2: -4
  - c- Priority 3: - 0
6. Tank Management/SPCC
  - a- Priority 1: - 0
  - b- Priority 2: - 1
  - c- Priority 3: - 0

7. Oils/Hazardous Substances Spills and Reporting

a- Priority 1: - 0

b- Priority 2: - 0

c- Priority 3: - 0

8. Medical/Bio Wastes

a- Priority 1: - 0

b- Priority 2: - 0

c- Priority 3: - 0

9. Environmental Training

a- Priority 1: - 0

b- Priority 2: - 2

c- Priority 3: - 0

10. Miscellaneous Requirements

a- Priority 1: - 0

b- Priority 2: - 0

c- Priority 3: - 0

## ***II Survey Findings – FCI Cumberland***

### **A. Air Emissions**

#### **1. Audit Finding: PRI 2 – AE – 001: MD Air Quality Permits**

- a- **Activity/Operation:** The institution operates spray booths that are regulated under the MD Air and Radiation Management Administration.
- b- **Requirement:** IAW MD Permit No. 001-6-0278N, issued to Federal Prison Industries 9 March 2006, the coating operation with a custom built spray booth with 3 hoods is under construction and not ready for operation.
- c- **Finding:** In the UNICOR area, the spray booth, while under construction, was being used for coating operations. Since the three hoods, as specified in the construction permit issued for this operation, were not yet constructed, coating operations are not allowed.
- d- **Recommendation:** Immediately cease all coating operations until the spray booth and associated hoods are constructed and operating IAW the issued construction permit.

#### **2. Audit Finding: PRI 2 – AE – 002: MD Air Quality Permits**

- a- **Activity/Operation:** The institution operates spray booths that are regulated under the MD Department of Air and Radiation Management Administration
- b- **Requirement:** IAW MD Permit No. 01-6-0150 thru -0153N, issued to Federal Prison Industries 23 August 1995, a paint booth, two UV screen dryers, and one screen washer is permitted to operate. The permit specifies the use of high volume, low pressure (HVLP) spray guns to meet the Best Available Control Technologies for Toxics (T-BACT) requirements set forth in the permit.
- c- **Finding:** In the UNICOR area, two non-HVLP spray guns were found in the operations area.
- d- **Recommendation:** In order to comply with the permit issued, only HVLP spray guns can be used. Suggest that a sweep of the area be made to ensure all non-HVLP spray guns are removed from the permitted area. In addition, ensure that only HVLP guns are allowed in the area in the future.

3. **Audit Finding:** PRI 2 – AE – 003: MD Air Quality Permits

- a- **Activity/Operation:** The institution operates spray booths that are regulated under the MD Department of Air and Radiation Management Administration
- b- **Requirement:** IAW MD Permit No. 01-6-0150 thru -0153N, issued 23 August 1995, a paint booth, two UV screen dryers, and one screen washer is permitted to operate. The permit requires monthly records of hours of operation and material usage for the paint spray booth and screen printing process. The records must be maintained on site for at least 3 year.
- c- **Finding:** In the UNICOR area, no monthly records required by the permit could be located.
- d- **Recommendation:** Immediately start a log that will document the hours of operation and materials used for the paint spray booth and the screen printing process. Record the information monthly and keep the records for at least 3 years.

4. **Audit Finding:** PRI 2 – AE – 004: MD Air Quality Permits

- a- **Activity/Operation:** The institution operates a cure oven that is regulated under the MD Department of Air and Radiation Management Administration
- b- **Requirement:** IAW MD Permit No. 01-6-0194 N, issued to Federal Prison Industries 13 January 1997, an infrared cure conveyor oven is permitted to operate. The permit specifies the use of high volume, low pressure (HVLV) spray guns to meet the T-BACT requirements set forth in the permit.
- c- **Finding:** In the UNICOR area, according to site personnel, the oven for this permit is no longer used. A new oven was installed and is operating. A construction permit could not be found that authorized the installation and operation of the new oven. In addition, the permit referenced for the old oven was still in force even though the oven was no longer being used.
- d- **Recommendation:** Immediately apply to MD for a permit for the new oven and terminate the permit for the old oven. Ensure all personnel understand the need for applying for permits of operations that can affect air emissions before the equipment is ordered, purchased, installed, or operating.

5. **Audit Finding:** PRI 2 – AE – 005: MD Air Quality Permits

- a- **Activity/Operation:** The institution operates spray booths that are regulated under the MD Department of Air and Radiation Management Administration
- b- **Requirement:** IAW MD Permit No. 001-6-0245 N and 001-6-02480153 N, the institution has two permits issued to Federal Prison Industries for the same operational area. Finding PRI 2 – AE – 001 addresses the issue of two permits. However, this finding addresses the permit requirements found in both permits, that VOC contaminated cleanup and surface preparation materials be stored in closed containers and that enclosed containers or VOC recycling equipment be used to clean paint spray gun equipment and paint lines. These requirements are necessary to reduce VOC emissions to a Reasonable Available Control Technology (RACT).
- c- **Finding:** In the UNICOR area, open containers of paint thinner were found (This is also a violation of hazardous waste regulations and will be addressed at Finding PRI 2 – HAZ – 001). In addition, no evidence of enclosed containers or VOC recycling equipment could be found during the site visit.
- d- **Recommendation:** In order to comply with the permit issued, ensure that all VOC contaminated wastes are stored in closed containers. Develop a procedure that requires all cleaning of spray guns and paint lines be accomplished in closed containers or via VOC recycling equipment.

6. **Audit Finding:** PRI 2 – AE – 006: MD Air Quality Permits

- a- **Activity/Operation:** The institution operates spray booths that are regulated under the MD Department of Air and Radiation Management Administration
- b- **Requirement:** IAW MD Permit No. 001-6-0245 N and 001-6-02480153 N, the institution has two permits issued to Federal Prison Industries for the same operational area. Finding PRI 2 – AE – 001 addresses the issue of two permits. However, this finding addresses the permit requirements, found in both permits, that monthly records indicating hours of operation and total volume of and VOC content of coatings, cleanup materials, and surface preparation materials purchased by keep for at least 5 years.
- c- **Finding:** In the UNICOR area, monthly records required for either permit could not be found.
- d- **Recommendation:** Regardless of which permit the institution is going to operate with, develop a log that will record the information necessary to



comply with the permit requirements. Summarize the records monthly and keep the records for at least 5 years.

B. Water Quality

1. **No Findings**

C. Waste Water Quality

1. **No Findings**

D. Hazardous Waste Management

1. **Audit Finding:** PRI 2 – HW – 001: Hazardous Waste Storage

- a- **Activity/Operation:** The institution generates hazardous waste as defined by MD COMAR 26.13.02.03.
- b- **Requirement:** IAW MD COMAR 26.13.03.05.E.3, generators may store hazardous waste at a satellite accumulation point as long as the container is closed except when adding or removing waste and the container is marked “Hazardous Waste”.
- c- **Finding:** In the UNICOR area, an open container of hazardous waste – paint thinner – was found. The container was not marked hazardous waste.
- d- **Recommendation:** Develop procedures which require all hazardous containers be closed and marked. Once those procedures are developed, train all personnel in the area the details of the procedures.

2. **Audit Finding:** PRI 2 – HW – 002: Hazardous Waste Storage

- a- **Activity/Operation:** The institution generates hazardous waste as defined by MD COMAR 26.13.02.03.
- b- **Requirement:** IAW MD COMAR 26.13.03.05.E.1-2, generators may store hazardous waste as long as the container is closed except when adding or removing waste.
- c- **Finding:** In the hazardous waste storage room, an open drum of hazardous waste was found. Additionally, an open can of waste paint was found.
- d- **Recommendation:** Develop procedures which require all hazardous containers be closed. Once those procedures are developed, train all personnel in the area the details of the procedures.

## E. Universal Waste/Used Oil Management

### 1. **Audit Finding:** PRI 2 – UW – 001: Used Oil Labels.

- a- **Activity/Operation:** The facility generates used oil as defined by MD COMAR 26.10.15.01 which incorporates by reference 40 CFR 279.
- b- **Requirement:** IAW 40 CFR 279.20(a) and 40 CFR 279.22(c), labels with the words “used oil” will be placed on all containers/tanks/pipes holding used oil.
- c- **Finding:** In the garage bay area, containers used to drain used oil from vehicles were not labeled.
- d- **Recommendation:** Procure used oil labels and ensure all containers/tanks/pipes holding used oil that is to be recycled are labeled. Also ensure that all containers/tanks/pipes that hold used oil are closed except when adding and removing the used oil, the containers/tanks/pipes are compatible with the used oil, and the containers are not leaking and are in good condition.

### 2. **Audit Finding:** PRI 2 – UW – 002: Open container of used oil.

- a- **Activity/Operation:** The facility generates used oil as defined by MD COMAR 26.10.15.01 which incorporates by reference 40 CFR 279.
- b- **Requirement:** IAW 40 CFR 279.22(a), which references 40 CFR 265.173(a), containers holding used oil must be closed except when adding or removing used oil
- c- **Finding:** In the garage bay area, an open drum of used oil was found
- d- **Recommendation:** Develop procedures which ensure all containers of used oil are stored closed. Once those procedures are developed, train all personnel working in the garage area using the new procedures are training materials.

### 3. **Audit Finding:** PRI 2 – UW – 003: Universal Waste Storage.

- a- **Activity/Operation:** The facility generates universal wastes lamps as defined by MD COMAR 26.13.10.09.C.
- b- **Requirement:** IAW MD COMAR 26.13.10.17.A, B, C and MD COMAR 26.13.10.15.B, universal wastes lamps must be managed according to specific parameters. The containers must be closed except when adding or removing the universal wastes. The containers must be marked WASTE LAMP(S), USED LAMP(S), or UNIVERSAL WASTE – LAMP(S). The package must be designed so as to prevent breakage during normal

handling conditions. The container must be dated or evidence provided that indicates the universal waste has not been stored onsite longer than 1 year.

- c- **Finding:** In the electric shop, waste lamps were found, not boxed, not labeled, and not dated.
- d- **Recommendation:** Develop procedures which address the specific requirements for accumulating and storing of universal waste lamps onsite. Train all institution personnel responsible for handling universal waste, addressing the procedures developed.

4. **Audit Finding:** PRI 2 – UW – 004: Universal Waste Storage.

- a- **Activity/Operation:** The facility generates mercury contained thermostats universal wastes as defined by MD COMAR 26.13.10.09.C.
- b- **Requirement:** IAW MD COMAR 26.13.10.17.A, B, C and MD COMAR 26.13.10.14.B, universal wastes lamps must be managed according to specific parameters. The containers must be closed except when adding or removing the universal wastes. The containers must be marked "Universal Waste—Mercury Thermostat(s)", "Waste Mercury Thermostat(s)" or "Used Mercury Thermostat(s)". The package must be designed so as to prevent breakage during normal handling conditions. The container must be dated or evidence provided the universal waste has not been stored onsite longer than 1 year.
- c- **Finding:** In the universal waste storage area, waste mercury thermostats were found, not boxed, not labeled, and not dated.
- d- **Recommendation:** Develop procedures which address the specific requirements for accumulating and storing of universal waste mercury thermostats onsite. Train all institution personnel responsible for handling universal waste, addressing the procedures developed.

F. Tank Management/SPCC

1. **Audit Finding:** PRI 2 – TM – 001: Inaccurate ICP/SPCC

- a- **Activity/Operation:** The institution stores in above ground containers/tanks over 1320 gallons of oil/petroleum.
- b- **Requirement:** IAW 40 CFR 112.7, facilities that have more than 1,320 gallons of oil/petroleum in above ground storage tanks must prepare and maintain a Spill Prevention, Controls and Countermeasures Plan (SPCC). The SPCC Plan, at the discretion of the facility, may be combined into an Integrated Contingency Plan as long as all of the SPCC elements are

contained in the plan and a cross reference is included if the plan does not follow the order listed in 40 CFR 112.7.

- c- **Finding:** The total above ground storage capacity at the institution exceeds 1,320 gallons. After reviewing the ICP Plan, which is serving as the spill prevention plan, none of the required elements for the SPCC plan could be found.
- d- **Recommendation:** An SPCC plan should be developed following all of the elements from 40 CFR 112. Once developed, comply with all requirements listed in the SPCC plan.

G. Emergency Planning and Community-Right-to-Know (EPCRA)

1. **No findings found in this area.**

H. Oils and Hazardous Substances Spills and Reporting

1. **No findings found in this area.**

I. Medical/Biohazard Wastes

1. **No findings found in this area.**

J. Environmental Training

1. **Audit Finding:** PRI 2-TNG-001: SPCC Training

- a- **Activity/Operation:** The institution stores in above ground containers/tanks over 1,320 gallons of oil/petroleum.
- b- **Requirement:** IAW 40 CFR 112.7(f)(3), all oil handling employees must be trained at least once a year to ensure adequate understanding of the SPCC plan.
- c- **Finding:** No record of this training could be located at the institution.
- d- **Recommendation:** Start training all oil handling employees at least once a year, documenting the training and personnel who attend.

2. **Audit Finding:** PRI 2 – TNG – 002: Universal Waste Training

- a- **Activity/Operation:** The facility generates universal wastes lamps as defined by MD COMAR 26.13.10.09.C.
- b- **Requirement:** IAW MD COMAR 26.13.10.17.C, personnel who handle or have responsibility for managing universal waste require training on proper handling procedures for each type of universal waste handled at the

facility and emergency procedures appropriate for the types of universal waste handled at the institution.

- c- **Finding:** No records indicating universal waste training had taken place could be viewed during the site visit.
- d- **Recommendation:** Either find the records documenting the universal waste training is being conducted for all personnel who are responsible for and are handling the universal waste or develop and conduct the training as soon as practicable.

#### K. Miscellaneous Findings

1. **No Findings in this area.**

### ***III Federal Rules***

The following citations were used to support the findings based on federal regulations. The citations are listed in numeric order.

**§ 112.3**

but not limited to oils and fats derived from plant seeds, nuts, fruits, and kernels.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds.

*Worst case discharge* for an onshore non-transportation-related facility means the largest foreseeable discharge in adverse weather conditions as determined using the worksheets in Appendix D to this part.

**§ 112.3 Requirement to prepare and implement a Spill Prevention, Control, and Countermeasure Plan.**

The owner or operator of an onshore or offshore facility subject to this section must prepare a Spill Prevention, Control, and Countermeasure Plan (hereafter “SPCC Plan” or “Plan”), in writing, and in accordance with § 112.7, and any other applicable section of this part.

(a) If your onshore or offshore facility was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, by October 31, 2007, and implement the Plan no later than October 31, 2007. If your onshore or offshore facility becomes operational after August 16, 2002, through October 31, 2007, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan on or before October 31, 2007.

(b) If you are the owner or operator of an onshore or offshore facility that becomes operational after October 31, 2007, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and imple-

**40 CFR Ch. I (7–1–06 Edition)**

ment a Plan before you begin operations.

(c) If you are the owner or operator of an onshore or offshore mobile facility, such as an onshore drilling or workover rig, barge mounted offshore drilling or workover rig, or portable fueling facility, you must prepare, implement, and maintain a facility Plan as required by this section. You must maintain your Plan, but must amend and implement it, if necessary to ensure compliance with this part, on or before October 31, 2007. If your onshore or offshore mobile facility becomes operational after October 31, 2007, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan before you begin operations. This provision does not require that you prepare a new Plan each time you move the facility to a new site. The Plan may be a general Plan. When you move the mobile or portable facility, you must locate and install it using the discharge prevention practices outlined in the Plan for the facility. The Plan is applicable only while the facility is in a fixed (non-transportation) operating mode.

(d) A licensed Professional Engineer must review and certify a Plan for it to be effective to satisfy the requirements of this part.

(1) By means of this certification the Professional Engineer attests:

(i) That he is familiar with the requirements of this part ;

(ii) That he or his agent has visited and examined the facility;

(iii) That the Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of this part;

(iv) That procedures for required inspections and testing have been established; and

(v) That the Plan is adequate for the facility.

(2) Such certification shall in no way relieve the owner or operator of a facility of his duty to prepare and fully implement such Plan in accordance with the requirements of this part.

(e) If you are the owner or operator of a facility for which a Plan is required under this section, you must:

**Environmental Protection Agency****§ 112.4**

(1) Maintain a complete copy of the Plan at the facility if the facility is normally attended at least four hours per day, or at the nearest field office if the facility is not so attended, and

(2) Have the Plan available to the Regional Administrator for on-site review during normal working hours.

(f) *Extension of time.* (1) The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to this section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees.

(2) If you are an owner or operator seeking an extension of time under paragraph (f)(1) of this section, you may submit a written extension request to the Regional Administrator. Your request must include:

(i) A full explanation of the cause for any such delay and the specific aspects of the Plan affected by the delay;

(ii) A full discussion of actions being taken or contemplated to minimize or mitigate such delay; and

(iii) A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operation of any necessary equipment, or other preventive measures. In addition you may present additional oral or written statements in support of your extension request.

(3) The submission of a written extension request under paragraph (f)(2) of this section does not relieve you of your obligation to comply with the requirements of this part. The Regional Administrator may request a copy of your Plan to evaluate the extension request. When the Regional Administrator authorizes an extension of time for particular equipment or other specific aspects of the Plan, such extension does not affect your obligation to comply with the requirements related

to other equipment or other specific aspects of the Plan for which the Regional Administrator has not expressly authorized an extension.

[67 FR 47140, July 17, 2002, as amended at 68 FR 1351, Jan. 9, 2003; 68 FR 18894, Apr. 17, 2003; 69 FR 48798, Aug. 11, 2004; 71 FR 8466, Feb. 17, 2006]

**§ 112.4 Amendment of Spill Prevention, Control, and Countermeasure Plan by Regional Administrator.**

If you are the owner or operator of a facility subject to this part, you must:

(a) Notwithstanding compliance with § 112.3, whenever your facility has discharged more than 1,000 U.S. gallons of oil in a single discharge as described in § 112.1(b), or discharged more than 42 U.S. gallons of oil in each of two discharges as described in § 112.1(b), occurring within any twelve month period, submit the following information to the Regional Administrator within 60 days from the time the facility becomes subject to this section:

(1) Name of the facility;

(2) Your name;

(3) Location of the facility;

(4) Maximum storage or handling capacity of the facility and normal daily throughput;

(5) Corrective action and countermeasures you have taken, including a description of equipment repairs and replacements;

(6) An adequate description of the facility, including maps, flow diagrams, and topographical maps, as necessary;

(7) The cause of such discharge as described in § 112.1(b), including a failure analysis of the system or subsystem in which the failure occurred;

(8) Additional preventive measures you have taken or contemplated to minimize the possibility of recurrence; and

(9) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or discharge.

(b) Take no action under this section until it applies to your facility. This section does not apply until the expiration of the time permitted for the initial preparation and implementation of the Plan under § 112.3, but not including any amendments to the Plan.



**Environmental Protection Agency****§ 112.7**

16, 2002, five years from the date your last review was required under this part. As a result of this review and evaluation, you must amend your SPCC Plan within six months of the review to include more effective prevention and control technology if the technology has been field-proven at the time of the review and will significantly reduce the likelihood of a discharge as described in §112.1(b) from the facility. You must implement any amendment as soon as possible, but not later than six months following preparation of any amendment. You must document your completion of the review and evaluation, and must sign a statement as to whether you will amend the Plan, either at the beginning or end of the Plan or in a log or an appendix to the Plan. The following words will suffice, "I have completed review and evaluation of the SPCC Plan for (name of facility) on (date), and will (will not) amend the Plan as a result."

(c) Have a Professional Engineer certify any technical amendment to your Plan in accordance with §112.3(d).

**§ 112.6 [Reserved]****§ 112.7 General requirements for Spill Prevention, Control, and Countermeasure Plans.**

If you are the owner or operator of a facility subject to this part you must prepare a Plan in accordance with good engineering practices. The Plan must have the full approval of management at a level of authority to commit the necessary resources to fully implement the Plan. You must prepare the Plan in writing. If you do not follow the sequence specified in this section for the Plan, you must prepare an equivalent Plan acceptable to the Regional Administrator that meets all of the applicable requirements listed in this part, and you must supplement it with a section cross-referencing the location of requirements listed in this part and the equivalent requirements in the other prevention plan. If the Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, you must discuss these items in separate paragraphs, and must explain separately the details of installation and operational start-up. As de-

tailed elsewhere in this section, you must also:

(a)(1) Include a discussion of your facility's conformance with the requirements listed in this part.

(2) Comply with all applicable requirements listed in this part. Your Plan may deviate from the requirements in paragraphs (g), (h)(2) and (3), and (i) of this section and the requirements in subparts B and C of this part, except the secondary containment requirements in paragraphs (c) and (h)(1) of this section, and §§112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), 112.12(c)(11), 112.13(c)(2), and 112.14(c), where applicable to a specific facility, if you provide equivalent environmental protection by some other means of spill prevention, control, or countermeasure. Where your Plan does not conform to the applicable requirements in paragraphs (g), (h)(2) and (3), and (i) of this section, or the requirements of subparts B and C of this part, except the secondary containment requirements in paragraphs (c) and (h)(1) of this section, and §§112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), 112.12(c)(11), 112.13(c)(2), and 112.14(c), you must state the reasons for nonconformance in your Plan and describe in detail alternate methods and how you will achieve equivalent environmental protection. If the Regional Administrator determines that the measures described in your Plan do not provide equivalent environmental protection, he may require that you amend your Plan, following the procedures in §112.4(d) and (e).

(3) Describe in your Plan the physical layout of the facility and include a facility diagram, which must mark the location and contents of each container. The facility diagram must include completely buried tanks that are otherwise exempted from the requirements of this part under §112.1(d)(4). The facility diagram must also include all transfer stations and connecting pipes. You must also address in your Plan:

(i) The type of oil in each container and its storage capacity;

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(ii) Discharge prevention measures including procedures for routine handling of products (loading, unloading, and facility transfers, etc.);

(iii) Discharge or drainage controls such as secondary containment around containers and other structures, equipment, and procedures for the control of a discharge;

(iv) Countermeasures for discharge discovery, response, and cleanup (both the facility's capability and those that might be required of a contractor);

(v) Methods of disposal of recovered materials in accordance with applicable legal requirements; and

(vi) Contact list and phone numbers for the facility response coordinator, National Response Center, cleanup contractors with whom you have an agreement for response, and all appropriate Federal, State, and local agencies who must be contacted in case of a discharge as described in § 112.1(b).

(4) Unless you have submitted a response plan under § 112.20, provide information and procedures in your Plan to enable a person reporting a discharge as described in § 112.1(b) to relate information on the exact address or location and phone number of the facility; the date and time of the discharge; the type of material discharged; estimates of the total quantity discharged as described in § 112.1(b); the source of the discharge; a description of all affected media; the cause of the discharge; any damages or injuries caused by the discharge; actions being used to stop, remove, and mitigate the effects of the discharge; whether an evacuation may be needed; and, the names of individuals and/or organizations who have also been contacted.

(5) Unless you have submitted a response plan under § 112.20, organize portions of the Plan describing procedures you will use when a discharge occurs in a way that will make them readily usable in an emergency, and include appropriate supporting material as appendices.

(b) Where experience indicates a reasonable potential for equipment failure (such as loading or unloading equipment, tank overflow, rupture, or leakage, or any other equipment known to

be a source of a discharge), include in your Plan a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure.

(c) Provide appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in § 112.1(b). The entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank or pipe, will not escape the containment system before cleanup occurs. At a minimum, you must use one of the following prevention systems or its equivalent:

(1) For onshore facilities:

(i) Dikes, berms, or retaining walls sufficiently impervious to contain oil;

(ii) Curbing;

(iii) Culverting, gutters, or other drainage systems;

(iv) Weirs, booms, or other barriers;

(v) Spill diversion ponds;

(vi) Retention ponds; or

(vii) Sorbent materials.

(2) For offshore facilities:

(i) Curbing or drip pans; or

(ii) Sumps and collection systems.

(d) If you determine that the installation of any of the structures or pieces of equipment listed in paragraphs (c) and (h)(1) of this section, and §§ 112.8(c)(2), 112.8(c)(11), 112.9(c)(2), 112.10(c), 112.12(c)(2), 112.12(c)(11), 112.13(c)(2), and 112.14(c) to prevent a discharge as described in § 112.1(b) from any onshore or offshore facility is not practicable, you must clearly explain in your Plan why such measures are not practicable; for bulk storage containers, conduct both periodic integrity testing of the containers and periodic integrity and leak testing of the valves and piping; and, unless you have submitted a response plan under § 112.20, provide in your Plan the following:

(1) An oil spill contingency plan following the provisions of part 109 of this chapter.

(2) A written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful.

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(e) *Inspections, tests, and records.* Conduct inspections and tests required by this part in accordance with written procedures that you or the certifying engineer develop for the facility. You must keep these written procedures and a record of the inspections and tests, signed by the appropriate supervisor or inspector, with the SPCC Plan for a period of three years. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph.

(f) *Personnel, training, and discharge prevention procedures.* (1) At a minimum, train your oil-handling personnel in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and, the contents of the facility SPCC Plan.

(2) Designate a person at each applicable facility who is accountable for discharge prevention and who reports to facility management.

(3) Schedule and conduct discharge prevention briefings for your oil-handling personnel at least once a year to assure adequate understanding of the SPCC Plan for that facility. Such briefings must highlight and describe known discharges as described in §112.1(b) or failures, malfunctioning components, and any recently developed precautionary measures.

(g) *Security (excluding oil production facilities).* (1) Fully fence each facility handling, processing, or storing oil, and lock and/or guard entrance gates when the facility is not in production or is unattended.

(2) Ensure that the master flow and drain valves and any other valves permitting direct outward flow of the container's contents to the surface have adequate security measures so that they remain in the closed position when in non-operating or non-standby status.

(3) Lock the starter control on each oil pump in the "off" position and locate it at a site accessible only to authorized personnel when the pump is in a non-operating or non-standby status.

(4) Securely cap or blank-flange the loading/unloading connections of oil pipelines or facility piping when not in

service or when in standby service for an extended time. This security practice also applies to piping that is emptied of liquid content either by draining or by inert gas pressure.

(5) Provide facility lighting commensurate with the type and location of the facility that will assist in the:

(i) Discovery of discharges occurring during hours of darkness, both by operating personnel, if present, and by non-operating personnel (the general public, local police, etc.); and

(ii) Prevention of discharges occurring through acts of vandalism.

(h) *Facility tank car and tank truck loading/unloading rack (excluding off-shore facilities).* (1) Where loading/unloading area drainage does not flow into a catchment basin or treatment facility designed to handle discharges, use a quick drainage system for tank car or tank truck loading and unloading areas. You must design any containment system to hold at least the maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded at the facility.

(2) Provide an interlocked warning light or physical barrier system, warning signs, wheel chocks, or vehicle break interlock system in loading/unloading areas to prevent vehicles from departing before complete disconnection of flexible or fixed oil transfer lines.

(3) Prior to filling and departure of any tank car or tank truck, closely inspect for discharges the lowermost drain and all outlets of such vehicles, and if necessary, ensure that they are tightened, adjusted, or replaced to prevent liquid discharge while in transit.

(i) If a field-constructed aboveground container undergoes a repair, alteration, reconstruction, or a change in service that might affect the risk of a discharge or failure due to brittle fracture or other catastrophe, or has discharged oil or failed due to brittle fracture failure or other catastrophe, evaluate the container for risk of discharge or failure due to brittle fracture or other catastrophe, and as necessary, take appropriate action.

(j) In addition to the minimal prevention standards listed under this section, include in your Plan a complete

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discussion of conformance with the applicable requirements and other effective discharge prevention and containment procedures listed in this part or any applicable more stringent State rules, regulations, and guidelines.

**Subpart B—Requirements for Petroleum Oils and Non-Petroleum Oils, Except Animal Fats and Oils and Greases, and Fish and Marine Mammal Oils; and Vegetable Oils (Including Oils from Seeds, Nuts, Fruits, and Kernels)**

SOURCE: 67 FR 47146, July 17, 2002, unless otherwise noted.

**§ 112.8 Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities).**

If you are the owner or operator of an onshore facility (excluding a production facility), you must:

(a) Meet the general requirements for the Plan listed under §112.7, and the specific discharge prevention and containment procedures listed in this section.

(b) *Facility drainage.* (1) Restrain drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. You may empty diked areas by pumps or ejectors; however, you must manually activate these pumps or ejectors and must inspect the condition of the accumulation before starting, to ensure no oil will be discharged.

(2) Use valves of manual, open-and-closed design, for the drainage of diked areas. You may not use flapper-type drain valves to drain diked areas. If your facility drainage drains directly into a watercourse and not into an on-site wastewater treatment plant, you must inspect and may drain uncontaminated retained stormwater, as provided in paragraphs (c)(3)(ii), (iii), and (iv) of this section.

(3) Design facility drainage systems from undiked areas with a potential for a discharge (such as where piping is lo-

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cated outside containment walls or where tank truck discharges may occur outside the loading area) to flow into ponds, lagoons, or catchment basins designed to retain oil or return it to the facility. You must not locate catchment basins in areas subject to periodic flooding.

(4) If facility drainage is not engineered as in paragraph (b)(3) of this section, equip the final discharge of all ditches inside the facility with a diversion system that would, in the event of an uncontrolled discharge, retain oil in the facility.

(5) Where drainage waters are treated in more than one treatment unit and such treatment is continuous, and pump transfer is needed, provide two “lift” pumps and permanently install at least one of the pumps. Whatever techniques you use, you must engineer facility drainage systems to prevent a discharge as described in §112.1(b) in case there is an equipment failure or human error at the facility.

(c) *Bulk storage containers.* (1) Not use a container for the storage of oil unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature.

(2) Construct all bulk storage container installations so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

(3) Not allow drainage of uncontaminated rainwater from the diked area into a storm drain or discharge of an effluent into an open watercourse, lake, or pond, bypassing the facility treatment system unless you:

(i) Normally keep the bypass valve sealed closed.

(ii) Inspect the retained rainwater to ensure that its presence will not cause a discharge as described in §112.1(b).

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discussion of conformance with the applicable requirements and other effective discharge prevention and containment procedures listed in this part or any applicable more stringent State rules, regulations, and guidelines.

**Subpart B—Requirements for Petroleum Oils and Non-Petroleum Oils, Except Animal Fats and Oils and Greases, and Fish and Marine Mammal Oils; and Vegetable Oils (Including Oils from Seeds, Nuts, Fruits, and Kernels)**

SOURCE: 67 FR 47146, July 17, 2002, unless otherwise noted.

**§ 112.8 Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities).**

If you are the owner or operator of an onshore facility (excluding a production facility), you must:

(a) Meet the general requirements for the Plan listed under §112.7, and the specific discharge prevention and containment procedures listed in this section.

(b) *Facility drainage.* (1) Restrain drainage from diked storage areas by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. You may empty diked areas by pumps or ejectors; however, you must manually activate these pumps or ejectors and must inspect the condition of the accumulation before starting, to ensure no oil will be discharged.

(2) Use valves of manual, open-and-closed design, for the drainage of diked areas. You may not use flapper-type drain valves to drain diked areas. If your facility drainage drains directly into a watercourse and not into an on-site wastewater treatment plant, you must inspect and may drain uncontaminated retained stormwater, as provided in paragraphs (c)(3)(ii), (iii), and (iv) of this section.

(3) Design facility drainage systems from undiked areas with a potential for a discharge (such as where piping is lo-

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cated outside containment walls or where tank truck discharges may occur outside the loading area) to flow into ponds, lagoons, or catchment basins designed to retain oil or return it to the facility. You must not locate catchment basins in areas subject to periodic flooding.

(4) If facility drainage is not engineered as in paragraph (b)(3) of this section, equip the final discharge of all ditches inside the facility with a diversion system that would, in the event of an uncontrolled discharge, retain oil in the facility.

(5) Where drainage waters are treated in more than one treatment unit and such treatment is continuous, and pump transfer is needed, provide two “lift” pumps and permanently install at least one of the pumps. Whatever techniques you use, you must engineer facility drainage systems to prevent a discharge as described in §112.1(b) in case there is an equipment failure or human error at the facility.

(c) *Bulk storage containers.* (1) Not use a container for the storage of oil unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature.

(2) Construct all bulk storage container installations so that you provide a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must ensure that diked areas are sufficiently impervious to contain discharged oil. Dikes, containment curbs, and pits are commonly employed for this purpose. You may also use an alternative system consisting of a drainage trench enclosure that must be arranged so that any discharge will terminate and be safely confined in a facility catchment basin or holding pond.

(3) Not allow drainage of uncontaminated rainwater from the diked area into a storm drain or discharge of an effluent into an open watercourse, lake, or pond, bypassing the facility treatment system unless you:

(i) Normally keep the bypass valve sealed closed.

(ii) Inspect the retained rainwater to ensure that its presence will not cause a discharge as described in §112.1(b).

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(iii) Open the bypass valve and reseal it following drainage under responsible supervision; and

(iv) Keep adequate records of such events, for example, any records required under permits issued in accordance with §§ 122.41(j)(2) and 122.41(m)(3) of this chapter.

(4) Protect any completely buried metallic storage tank installed on or after January 10, 1974 from corrosion by coatings or cathodic protection compatible with local soil conditions. You must regularly leak test such completely buried metallic storage tanks.

(5) Not use partially buried or bunkered metallic tanks for the storage of oil, unless you protect the buried section of the tank from corrosion. You must protect partially buried and bunkered tanks from corrosion by coatings or cathodic protection compatible with local soil conditions.

(6) Test each aboveground container for integrity on a regular schedule, and whenever you make material repairs. The frequency of and type of testing must take into account container size and design (such as floating roof, skid-mounted, elevated, or partially buried). You must combine visual inspection with another testing technique such as hydrostatic testing, radiographic testing, ultrasonic testing, acoustic emissions testing, or another system of non-destructive shell testing. You must keep comparison records and you must also inspect the container's supports and foundations. In addition, you must frequently inspect the outside of the container for signs of deterioration, discharges, or accumulation of oil inside diked areas. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph.

(7) Control leakage through defective internal heating coils by monitoring the steam return and exhaust lines for contamination from internal heating coils that discharge into an open watercourse, or pass the steam return or exhaust lines through a settling tank, skimmer, or other separation or retention system.

(8) Engineer or update each container installation in accordance with good engineering practice to avoid dis-

charges. You must provide at least one of the following devices:

(i) High liquid level alarms with an audible or visual signal at a constantly attended operation or surveillance station. In smaller facilities an audible air vent may suffice.

(ii) High liquid level pump cutoff devices set to stop flow at a predetermined container content level.

(iii) Direct audible or code signal communication between the container gauger and the pumping station.

(iv) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If you use this alternative, a person must be present to monitor gauges and the overall filling of bulk storage containers.

(v) You must regularly test liquid level sensing devices to ensure proper operation.

(9) Observe effluent treatment facilities frequently enough to detect possible system upsets that could cause a discharge as described in § 112.1(b).

(10) Promptly correct visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts. You must promptly remove any accumulations of oil in diked areas.

(11) Position or locate mobile or portable oil storage containers to prevent a discharge as described in § 112.1(b). You must furnish a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.

(d) *Facility transfer operations, pumping, and facility process.* (1) Provide buried piping that is installed or replaced on or after August 16, 2002, with a protective wrapping and coating. You must also cathodically protect such buried piping installations or otherwise satisfy the corrosion protection standards for piping in part 280 of this chapter or a State program approved under part 281 of this chapter. If a section of buried line is exposed for any reason, you must carefully inspect it for deterioration. If you find corrosion damage,

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you must undertake additional examination and corrective action as indicated by the magnitude of the damage.

(2) Cap or blank-flange the terminal connection at the transfer point and mark it as to origin when piping is not in service or is in standby service for an extended time.

(3) Properly design pipe supports to minimize abrasion and corrosion and allow for expansion and contraction.

(4) Regularly inspect all aboveground valves, piping, and appurtenances. During the inspection you must assess the general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces. You must also conduct integrity and leak testing of buried piping at the time of installation, modification, construction, relocation, or replacement.

(5) Warn all vehicles entering the facility to be sure that no vehicle will endanger aboveground piping or other oil transfer operations.

**§ 112.9 Spill Prevention, Control, and Countermeasure Plan requirements for onshore oil production facilities.**

If you are the owner or operator of an onshore production facility, you must:

(a) Meet the general requirements for the Plan listed under § 112.7, and the specific discharge prevention and containment procedures listed under this section.

(b) *Oil production facility drainage.* (1) At tank batteries and separation and treating areas where there is a reasonable possibility of a discharge as described in § 112.1(b), close and seal at all times drains of dikes or drains of equivalent measures required under § 112.7(c)(1), except when draining uncontaminated rainwater. Prior to drainage, you must inspect the diked area and take action as provided in § 112.8(c)(3)(ii), (iii), and (iv). You must remove accumulated oil on the rainwater and return it to storage or dispose of it in accordance with legally approved methods.

(2) Inspect at regularly scheduled intervals field drainage systems (such as drainage ditches or road ditches), and oil traps, sumps, or skimmers, for an accumulation of oil that may have re-

sulted from any small discharge. You must promptly remove any accumulations of oil.

(c) *Oil production facility bulk storage containers.* (1) Not use a container for the storage of oil unless its material and construction are compatible with the material stored and the conditions of storage.

(2) Provide all tank battery, separation, and treating facility installations with a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation. You must safely confine drainage from undiked areas in a catchment basin or holding pond.

(3) Periodically and upon a regular schedule visually inspect each container of oil for deterioration and maintenance needs, including the foundation and support of each container that is on or above the surface of the ground.

(4) Engineer or update new and old tank battery installations in accordance with good engineering practice to prevent discharges. You must provide at least one of the following:

(i) Container capacity adequate to assure that a container will not overfill if a pumper/gauger is delayed in making regularly scheduled rounds.

(ii) Overflow equalizing lines between containers so that a full container can overflow to an adjacent container.

(iii) Vacuum protection adequate to prevent container collapse during a pipeline run or other transfer of oil from the container.

(iv) High level sensors to generate and transmit an alarm signal to the computer where the facility is subject to a computer production control system.

(d) *Facility transfer operations, oil production facility.* (1) Periodically and upon a regular schedule inspect all aboveground valves and piping associated with transfer operations for the general condition of flange joints, valve glands and bodies, drip pans, pipe supports, pumping well polish rod stuffing boxes, bleeder and gauge valves, and other such items.

(2) Inspect saltwater (oil field brine) disposal facilities often, particularly

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Identification Number, name, and address, and the amount of funds for closure or post-closure care or liability coverage that are guaranteed by the State. The Regional Administrator will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of §§ 265.143, § 265.145, or § 265.147, as applicable.

(b) If a State's assumption of responsibility is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this subpart by use of both the State's assurance *and* additional financial mechanisms as specified in this subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this subpart.

**Subpart I—Use and Management of Containers****§ 265.170 Applicability.**

The regulations in this subpart apply to owners and operators of all hazardous waste facilities that store containers of hazardous waste, except as § 265.1 provides otherwise.

**§ 265.171 Condition of containers.**

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this part.

**§ 265.172 Compatibility of waste with container.**

The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the

ability of the container to contain the waste is not impaired.

**§ 265.173 Management of containers.**

(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

[*Comment:* Re-use of containers in transportation is governed by U.S. Department of Transportation regulations, including those set forth in 49 CFR 173.28.]

[45 FR 33232, May 19, 1980, as amended at 45 FR 78529, Nov. 25, 1980]

**§ 265.174 Inspections.**

At least weekly, the owner or operator must inspect areas where containers are stored, except for Performance Track member facilities, that must conduct inspections at least once each month, upon approval by the Director. To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in § 265.15(b)(5) of this part. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[*Comment:* See § 265.171 for remedial action required if deterioration or leaks are detected.]

[71 FR 16910, Apr. 4, 2006]

**§ 265.175 [Reserved]****§ 265.176 Special requirements for ignitable or reactive waste.**

Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line.

[*Comment:* See § 265.17(a) for additional requirements.]

**§ 265.177 Special requirements for incompatible wastes.**

(a) Incompatible wastes, or incompatible wastes and materials, (see appendix V for examples) must not be placed in the same container, unless § 265.17(b) is complied with.



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greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements found at 40 CFR Part 761, including § 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under 40 CFR Part 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or Part 761 of this chapter.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993; 59 FR 10559, Mar. 4, 1994; 59 FR 10559, Mar. 4, 1994; 61 FR 33693, June 28, 1996; 63 FR 24969, May 6, 1998; 63 FR 37782, July 14, 1998; 68 FR 44665, July 30, 2003; 70 FR 34591, June 14, 2005]

**§ 279.11 Used oil specifications.**

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this part unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with §§ 279.72, 279.73, and 279.74(b), the used oil is no longer subject to this part.

TABLE 1—USED OIL NOT EXCEEDING ANY SPECIFICATION LEVEL IS NOT SUBJECT TO THIS PART WHEN BURNED FOR ENERGY RECOVERY<sup>1</sup>

Constituent/property	Allowable level
Arsenic .....	5 ppm maximum.
Cadmium .....	2 ppm maximum.
Chromium .....	10 ppm maximum.
Lead .....	100 ppm maximum.
Flash point .....	100 °F minimum.
Total halogens .....	4,000 ppm maximum. <sup>2</sup>
NOTE: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).	

<sup>1</sup>The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see § 279.10(b)).

<sup>2</sup>Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under § 279.10(b)(1). Such used oil is subject to subpart H of part 266 of this chapter rather than this part when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

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[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**§ 279.12 Prohibitions.**

(a) *Surface impoundment prohibition.* Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under parts 264 or 265 of this chapter.

(b) *Use as a dust suppressant.* The use of used oil as a dust suppressant is prohibited, except when such activity takes place in one of the states listed in § 279.82(c).

(c) *Burning in particular units.* Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in § 260.10 of this chapter;

(2) Boilers, as defined in § 260.10 of this chapter, that are identified as follows:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

(iii) Used oil-fired space heaters provided that the burner meets the provisions of § 279.23.

(3) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**Subpart C—Standards for Used Oil Generators****§ 279.20 Applicability.**

(a) *General.* Except as provided in paragraphs (a)(1) through (a)(4) of this section, this subpart applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(1) *Household “do-it-yourselfer” used oil generators.* Household “do-it-yourselfer” used oil generators are not subject to regulation under this part.

(2) *Vessels.* Vessels at sea or at port are not subject to this subpart. For

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purposes of this subpart, used oil produced on vessels from normal ship-board operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this subpart once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this subpart.

(3) *Diesel fuel.* Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this subpart.

(4) *Farmers.* Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this part.

(b) *Other applicable provisions.* Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this part as indicated in paragraphs (b)(1) through (5) of this section:

(1) Generators who transport used oil, except under the self-transport provisions of § 279.24 (a) and (b), must also comply with subpart E of this part.

(2) (i) Except as provided in paragraph (b)(2)(ii) of this section, generators who process or re-refine used oil must also comply with subpart F of this part.

(ii) Generators who perform the following activities are not processors provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel.

(A) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;

(B) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to section 402 or section 307(b) of the Clean Water Act or other applicable Federal or state regulations

governing the management or discharge of wastewaters;

(C) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

(D) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to § 279.10(c); or

(E) Filtering, separating or otherwise reconditioning used oil before burning it in a space heater pursuant to § 279.23.

(3) Generators who burn off-specification used oil for energy recovery, except under the on-site space heater provisions of § 279.23, must also comply with subpart G of this part.

(4) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in § 279.11 must also comply with subpart H of this part.

(5) Generators who dispose of used oil, including the use of used oil as a dust suppressant, must also comply with subpart I of this part.

[57 FR 41612, Sept. 10, 1992, as amended at 59 FR 10560, Mar. 4, 1994]

**§ 279.21 Hazardous waste mixing.**

(a) Mixtures of used oil and hazardous waste must be managed in accordance with § 279.10(b).

(b) The rebuttable presumption for used oil of § 279.10(b)(1)(ii) applies to used oil managed by generators. Under the rebuttable presumption for used oil of § 279.10(b)(1)(ii), used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus must be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils/fluids and certain used oils removed from refrigeration units.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**§ 279.22****§ 279.22 Used oil storage.**

Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this Subpart. Used oil generators are also subject to the Underground Storage Tank (40 CFR part 280) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) *Storage units.* Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under parts 264 or 265 of this chapter.

(b) *Condition of units.* Containers and aboveground tanks used to store used oil at generator facilities must be:

(1) In good condition (no severe rusting, apparent structural defects or deterioration); and

(2) Not leaking (no visible leaks).

(c) *Labels.* (1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."

(d) *Response to releases.* Upon detection of a release of used oil to the environment that is not subject to the requirements of part 280, subpart F of this chapter and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located, a generator must perform the following cleanup steps:

(1) Stop the release;

(2) Contain the released used oil;

(3) Clean up and manage properly the released used oil and other materials; and

(4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993; 63 FR 24969, May 6, 1998]

**40 CFR Ch. I (7-1-06 Edition)****§ 279.23 On-site burning in space heaters.**

Generators may burn used oil in used oil-fired space heaters provided that:

(a) The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;

(b) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(c) The combustion gases from the heater are vented to the ambient air.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

**§ 279.24 Off-site shipments.**

Except as provided in paragraphs (a) through (c) of this section, generators must ensure that their used oil is transported only by transporters who have obtained EPA identification numbers.

(a) *Self-transportation of small amounts to approved collection centers.* Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

(1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

(2) The generator transports no more than 55 gallons of used oil at any time; and

(3) The generator transports the used oil to a used oil collection center that is registered, licensed, permitted, or recognized by a state/county/municipal government to manage used oil.

(b) *Self-transportation of small amounts to aggregation points owned by the generator.* Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided that:

(1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

(2) The generator transports no more than 55 gallons of used oil at any time; and

(3) The generator transports the used oil to an aggregation point that is

**Pipeline and Hazardous Materials Safety Admin., DOT****§ 172.704**

(b) Except as provided in § 172.704(c)(1), a hazmat employee who performs any function subject to the requirements of this subchapter may not perform that function unless instructed in the requirements of this subchapter that apply to that function. It is the duty of each hazmat employer to comply with the applicable requirements of this subchapter and to thoroughly instruct each hazmat employee in relation thereto.

(c) Training may be provided by the hazmat employer or other public or private sources.

(d) A hazmat employer shall ensure that each of its hazmat employees is tested by appropriate means on the training subjects covered in § 172.704.

[Amdt. 172-126, 57 FR 20952, May 15, 1992; 57 FR 22182, May 27, 1992, as amended by Amdt. 172-149, 61 FR 27173, May 30, 1996]

**§ 172.704 Training requirements.**

(a) Hazmat employee training must include the following:

(1) *General awareness/familiarization training.* Each hazmat employee shall be provided general awareness/familiarization training designed to provide familiarity with the requirements of this subchapter, and to enable the employee to recognize and identify hazardous materials consistent with the hazard communication standards of this subchapter.

(2) *Function-specific training.* (i) Each hazmat employee must be provided function-specific training concerning requirements of this subchapter, or exemptions or special permits issued under subchapter A of this chapter, that are specifically applicable to the functions the employee performs.

(ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by §§ 171.11 and 171.12 of this subchapter.

(3) *Safety training.* Each hazmat employee shall receive safety training concerning—

(i) Emergency response information required by subpart G of part 172;

(ii) Measures to protect the employee from the hazards associated with hazardous materials to which they may be exposed in the work place, including specific measures the hazmat employer has implemented to protect employees from exposure; and

(iii) Methods and procedures for avoiding accidents, such as the proper procedures for handling packages containing hazardous materials.

(4) *Security awareness training.* No later than the date of the first scheduled recurrent training after March 25, 2003, and in no case later than March 24, 2006, each hazmat employee must receive training that provides an awareness of security risks associated with hazardous materials transportation and methods designed to enhance transportation security. This training must also include a component covering how to recognize and respond to possible security threats. After March 25, 2003, new hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.

(5) *In-depth security training.* By December 22, 2003, each hazmat employee of a person required to have a security plan in accordance with subpart I of this part must be trained concerning the security plan and its implementation. Security training must include company security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breach, and the organizational security structure.

(b) *OSHA, EPA, and other training.* Training conducted by employers to comply with the hazard communication programs required by the Occupational Safety and Health Administration of the Department of Labor (29 CFR 1910.120 or 1910.1200) or the Environmental Protection Agency (40 CFR 311.1), or training conducted by employers to comply with security training programs required by other Federal or international agencies, may be used to satisfy the training requirements in paragraph (a) of this section to the extent that such training addresses the training components specified in paragraph (a) of this section.

#### ***IV Maryland-Specific Rules***

The following citations were used to support the findings based on Maryland-specific regulations. The citations are listed in numeric order.

26.10.15.01

### **.01 Incorporation by Reference.**

A. Except as provided in B-----F of this regulation, 40 CFR 279 (1997) is incorporated by reference.

B. References to 40 CFR 124-----280.12 contained within 40 CFR 279 are cross-referenced to the Code of Maryland Regulations in the table below:

40 CFR Section:	COMAR Equivalent:
124	26.13.07
257	26.04.07
258	26.04.07
260-----266	26.13.01-----.06, .08-----.10
260.10	26.13.01.03
260.20	26.13.01.04A
260.21	26.13.01.04B
261	26.13.02
261.1	26.13.02.01
261.21	26.13.02.11
261.3(c)(2)(i)	26.13.02.03C(2)
261.5	26.13.02.05
261.7	25.13.02.07
261 Subpart C	26.13.02.10-----.14
261 Subpart D	26.13.02.15-----.19
261 Appendix I	26.13.02.20
261 Appendix VIII	26.13.02.24
264	26.13.05
264 Subpart O	26.13.05.16
265	26.13.05
265.310	26.13.05.14J
265 Subpart O	26.13.05.16
268	NONE
270	26.13.07
280.12	26.10.02.04

C. 40 CFR 279.12(b) and 279.82(a) are changed to read: "The use of used oil as a dust suppressant is prohibited."

D. 40 CFR 279.42(b), 279.51(b), and 279.73(b) are changed to read: "Mechanics of Notification. A used oil transporter, processor/re-refiner, or marketer who does not have an EPA identification number may obtain a number by submitting a completed EPA Form 8700-12, which the Department will provide on request to

the Maryland Department of the Environment, Hazardous Waste Program, 2500 Broening Highway, Baltimore, Maryland 21224. Forms can be obtained by calling (410) 631-3344."

E. 40 CFR §279.10(b) is replaced by COMAR 26.13.10.05A-----F.

F. 40 CFR §279.57(b) is replaced by COMAR 26.10.15.04.

26.13.02.03

### **.03 Definition of Hazardous Waste.**

A. A solid waste, as defined in Regulation .02, is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under Regulation .04-1 of this chapter; and

(2) It meets any of the following criteria:

(a) It exhibits any of the characteristics of hazardous waste identified in this chapter.

(b) It is listed in Regulations .15—.19 and has not been excluded from the lists by COMAR 26.13.01.04A and C.

(c) It is a mixture of solid waste and a hazardous waste that is listed in this chapter solely because it exhibits one or more of the characteristics of hazardous waste identified in this chapter unless the:

(i) Resultant mixture no longer exhibits any characteristic of hazardous waste as identified in this chapter; or

(ii) Solid waste is excluded from regulation under Regulation .04-1A(7) of this chapter and the resultant mixture no longer exhibits any characteristic of hazardous waste identified in this chapter for which the hazardous waste in the mixture was listed in this chapter.

(d) It is a mixture of solid waste and one or more hazardous wastes listed in this chapter and has not been excluded from this paragraph under COMAR 26.13.01.04; however, the following mixtures of solid wastes and hazardous wastes listed in this chapter are not hazardous wastes (except by application of §A(2)(a) and (b) of this regulation) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either §402 or 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

(i) One or more of the following spent solvents listed in Regulation .16—carbon tetrachloride, tetrachloroethylene, trichloroethylene—provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one part per million;

(ii) One or more of the following spent solvents listed in Regulation .16—methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, cresols, cresylic acid and nitrobenzene, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million;

(iii) One of the following wastes listed in Regulation .17—heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050);

(iv) A discarded commercial chemical product or chemical intermediate listed in Regulation .19 arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this subparagraph, "de minimis" losses include those from normal material handling operations (for example, spills from the



unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

(v) Wastewater resulting from laboratory operations containing toxic (T) wastes listed in this chapter provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of the total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system or provided the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

(e) Except as provided in COMAR 26.13.02.04-1A(11), it is used oil which contains more than 1,000 parts per million total halogens and is therefore presumed to have been mixed with halogenated hazardous waste listed in Regulations .16—.19 of this chapter.

A-1. Any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under Regulation .04-1A(7) of this chapter and any other solid waste which exhibits a characteristic of hazardous waste under Regulations .10—.14 of this chapter, is a hazardous waste only under the following circumstances:

(1) The mixture exhibits a characteristic that would not have been exhibited by the excluded waste alone if this mixture had not occurred;

(2) The mixture continues to exhibit any of the characteristics exhibited by the non-excluded wastes before mixture; or

(3) The mixture exhibits the characteristic of toxicity and either of the following conditions hold:

(a) For one or more of the contaminants that cause the mixture to exhibit the characteristic of toxicity, the maximum concentration listed in Table 1 of Regulation .14B of this chapter would not have been exceeded by the excluded waste alone had the mixture not occurred, or

(b) For any contaminant that caused the nonexempt waste to exhibit the characteristic of toxicity before the mixture occurred, the mixture continues to exceed the maximum concentration for that contaminant listed in Table 1 of Regulation .14B of this chapter.

B. A solid waste which is not excluded from regulation under §A(1) becomes a hazardous waste when any of the following events occurs:

(1) In the case of a waste listed in Regulations .15—.19 of this chapter, when the waste first meets the listing description set forth in Regulations .15—.19 of this chapter;

(2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in Regulations .15—.19 of this chapter is first added to the solid waste;

(3) In the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in Regulations .10—.14 of this chapter.

C. Unless and until it meets the criteria of §D:

(1) A hazardous waste will remain a hazardous waste.

(2) Except as otherwise provided in §C(3), any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate but not including precipitation runoff, is a hazardous waste. However, materials that are reclaimed from solid waste and that are used beneficially are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(3) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332) is not a hazardous waste even though it is generated from the treatment, storage, or disposal of a hazardous waste, unless it exhibits one or more of the characteristics of hazardous waste.

D. Any solid waste described in §C is not a hazardous waste if it meets the following criteria:

(1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in Regulations .10—.14;

(2) In the case of a waste which is a listed waste under Regulations .15—.19, contains a waste(s) listed under Regulations .15—.19 or is derived from a waste listed in Regulations .15—.19, it also has been excluded from §C under COMAR 26.13.01.04A(3) and C.

26.13.03.05

### **.05 Pretransport Requirements.**

A. Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR 173, 178, and 179.

B. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator shall label each package in accordance with the applicable Department of Transportation regulations on hazardous materials, under 49 CFR 172.

C. Marking.

(1) Before transporting or offering hazardous waste for transportation off-site, a generator shall mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR 172.

Agency Note: See COMAR 26.13.04.02A(5) or (6) for special provisions for rail or water (bulk shipment) transporters who deliver hazardous waste by rail or water to the designated facility.

(2) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall mark each container of 119 gallons or less used in the transportation with the following words and information displayed in accordance with the requirements of 49 CFR §172.304:

"HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U. S. Environmental Protection Agency.

Generator's Name and Address \_\_\_\_\_.

Generator's EPA Identification Number \_\_\_\_\_.

Manifest Tracking Number \_\_\_\_\_."

D. Placarding. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

E. Accumulation Time.

(1) A generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less if:

(a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;

(b) The generator accumulates the waste:

(i) In containers,

- (ii) In tanks, or
- (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on;
- (c) Containers used to accumulate the waste meet the standards of §A of this regulation;
- (d) The generator accumulates the waste in containers in accordance with COMAR 26.13.05.09;
- (e) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- (f) Each container is:
  - (i) Properly labeled according to §§B and C of this regulation, and
  - (ii) Labeled or marked clearly with the words "Hazardous Waste", while being accumulated on site.
- (g) The generator complies with the requirements for owners or operators in COMAR 26.13.05.02G, .03, and .04;
- (h) The generator, in accumulating waste in tanks:
  - (i) Complies with the requirements of COMAR 26.13.05.10—.10-3, and .10-6A, and 26.13.06.18D, except for COMAR 26.13.05.10B, 26.13.05.10-3A, and 26.13.06.18D(4), and the requirement for the Secretary's approval in COMAR 26.13.05.10-3A,
  - (ii) Complies with the requirements of COMAR 26.13.05.10-4, except that the generator may not seek a variance from the requirements of COMAR 26.13.05.10-4 under the provisions of COMAR 26.13.05.10-5,
  - (iii) Inspects overfill controls at least once each operating day, and
  - (iv) Clearly marks or labels the tanks with the words "Hazardous Waste", while waste is being accumulated in the tanks;
- (i) The generator, if accumulating hazardous waste in tanks, submits the following information to the Secretary for each tank exempted from permit requirements under this section:
  - (i) Date of installation of the tank, or, if the date of installation is unknown, the age of the facility,
  - (ii) Tank capacity,
  - (iii) Secondary containment capacity,
  - (iv) Whether the tank is an above-ground tank, on-ground tank, in-ground tank, or underground tank,
  - (v) For underground tanks, whether the tank can be entered for inspection, and
  - (vi) Waste code of each waste managed in the tank;

(j) The generator provides the information required by §E(1)(i) of this regulation by the following deadlines:

(i) For existing tanks, by January 1, 1994,

(ii) For new tanks, before the tank is used to manage hazardous waste;

(k) The generator maintains an inspection log or summary in accordance with the following:

(i) The log or summary documents inspections performed in accordance with §E(1)(d) and (h) of this regulation,

(ii) The log or summary includes the date and time of each inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs made or other remedial actions taken, and

(iii) The generator keeps the log on file for a minimum of 3 years from the date of inspection; and

(l) The generator, if accumulating waste on drip pads:

(i) Accumulates the waste in accordance with COMAR 26.13.05.17-1—.17-4,

(ii) Maintains, at the facility, a description of procedures that are followed to ensure that all wastes are removed from the drip pad, the sump, and the collection system at least once every 90 days,

(iii) Maintains documentation at the facility, for each waste removal, of the date, the time, and the quantity of waste removed from the drip pad, the sump, and the collection system, and

(iv) Notifies the Secretary of the intent to close a drip pad at least 45 days before closure begins.

(2) A generator who accumulates hazardous waste is an operator of a storage facility and is subject to the requirements of COMAR 26.13.05 or 23.13.06, unless the hazardous waste:

(a) Is accumulated for 90 days or less; or

(b) Accumulated:

(i) Is less than 500 kilograms,

(ii) Contains less than 1 kilogram of acute hazardous waste,

(iii) Is accumulated for 180 days or less from the date of initial generation or accumulation, and

(iv) Is generated by a person who generates less than 1,000 kilograms of hazardous waste in a calendar month.

(3) Satellite Accumulation. A generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in COMAR 26.13.02.19E in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with §E(1) provided the generator:

(a) Complies with COMAR 26.13.05.09B—D; and

(b) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(4) Returned, Rejected Loads.

(a) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment or part of that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of COMAR 26.13.05.05C, COMAR 26.13.06.05A, 40 CFR §264.72, 40 CFR §265.72, or analogous regulations of the designated facility's state, may accumulate the returned waste onsite in accordance with §E(1) and (2) of this regulation.

(b) Upon receipt of a shipment returned in accordance with §E(4)(a) of this regulation, the generator shall:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(ii) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

26.13.10.09

**.09 Applicability—Lamps, Mercury Thermostats, and PCB-Containing Lamp Ballasts.**

A. Except as provided in §B of this regulation, the requirements of Regulations .06—.25 of this chapter apply to persons managing lamps, thermostats, or PCB-containing lamp ballasts as defined in COMAR 26.13.01.03B.

B. The requirements of Regulations .06—.25 of this chapter do not apply to management of an item that is a lamp, thermostat, or PCB-containing lamp ballast if the item is:

- (1) Not yet a waste under COMAR 26.13.02, as described in §C of this regulation; and
- (2) Not hazardous waste as defined in COMAR 26.13.02.03.

C. Determination of When a Lamp, Thermostat, or PCB-Containing Lamp Ballast Becomes a Waste.

(1) A used lamp, thermostat, or PCB-containing lamp ballast becomes a waste on the date it is discarded, with "discard" being defined by the criteria in COMAR 26.13.02.02A(2); and

(2) An unused lamp, thermostat, or PCB-containing lamp ballast becomes a waste on the date the handler decides to discard it.

26.13.10.14

#### **.14 Small Quantity Handlers of Universal Waste Thermostats—Specific Management Standards.**

A. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents release of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste:

(1) Shall place any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container that is:

(a) Kept closed, unless waste is being added to or removed from the container;

(b) Structurally sound;

(c) Compatible with the contents of the thermostat; and

(d) Free of evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(2) May remove mercury-containing ampules from universal waste thermostats, if the handler:

(a) Removes the ampules in a manner designed to prevent breakage of the ampules;

(b) Removes ampules only over a containment device, such as a tray or pan, sufficient to collect and contain any mercury released from an ampule if the ampule were to break;

(c) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks, as required by §B(2)(d) of this regulation;

(d) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device required by §B(2)(b) of this regulation to a container that meets the requirements of COMAR 26.13.03.05E;

(e) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable exposure levels for mercury established by the federal Occupational Safety and Health Administration (OSHA) and the Maryland Occupational Safety and Health (MOSH) program;

(f) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(g) Stores removed ampules in closed, nonleaking containers that are in good condition; and

(h) Ensures that packing materials adequate to prevent breakage during storage, handling, and transportation are used in packing removed ampules in the container required by §B(2)(g) of this regulation; and



(3) Shall, if the handler removes mercury-containing ampules from thermostats, comply with the following requirements:

(a) Determine whether the following meet the definition of hazardous waste in COMAR 26.13.02.03:

(i) Mercury or clean-up residues resulting from spills or leaks; and

(ii) Other solid waste generated as a result of the removal of mercury-containing ampules, such as remaining thermostat units;

(b) If a waste identified in §B(3)(a) of this regulation meets the definition of hazardous waste in COMAR 26.13.02.03, the handler:

(i) Shall manage the waste in compliance with all applicable requirements of COMAR 26.13.01—26.13.10; and

(ii) Is considered to be the generator of the waste and shall manage it in accordance with the requirements of COMAR 26.13.03; and

(c) If a waste identified in §B(3)(a) of this regulation does not meet the definition of hazardous waste in COMAR 26.13.02.03, the handler shall manage the waste in compliance with applicable federal, State, or local solid waste regulations.

26.13.10.15

### **.15 Small Quantity Handlers of Universal Waste Lamps—Specific Management Standards.**

A. A small quantity handler of universal waste shall manage universal waste lamps in a way that prevents release of any universal waste or any component of universal waste to the environment.

B. A small quantity handler of universal waste:

(1) Shall contain any lamp that the handler is managing as universal waste in a container or package that is:

(a) Structurally sound;

(b) Adequate to prevent breakage of the contents of the container or package;

(c) Compatible with the contents of the lamps;

(d) Kept closed except when adding waste to, or removing waste from, the container or package; and

(e) Free of evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions;

(2) Shall immediately:

(a) Collect any materials resulting from breakage of a universal waste lamp;

(b) Clean up any contamination and collect any residues resulting from breakage of a universal waste lamp; and

(c) Place the materials identified in §B(2)(a)—(b) of this regulation and any universal waste lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment in a container that is:

(i) Kept closed except when adding waste to, or removing waste from, the container;

(ii) Structurally sound;

(iii) Compatible with the contents of the lamps; and

(iv) Free of evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

(3) May use a device to crush mercury-containing universal waste lamps if:

(a) The handler meets the requirements of §B(2) of this regulation in operating the device;

(b) Use of the device does not cause exceedance of the federal Occupational Safety and Health Administration (OSHA) permissible exposure limit for mercury of 0.10 milligrams per cubic meter of air;

- (c) The handler has documentation from the manufacturer of the device or from another organization approved by the Department that demonstrates that the unit:
  - (i) Is capable of achieving the OSHA permissible exposure limit for mercury of 0.10 milligrams per cubic meter of air, taking into account the conditions in which the device will be operated, such as room size and room ventilation rate; and
  - (ii) Achieves a particle retention rate of at least 99.7 percent in the HEPA filter or alternate particulate control device, at a particle diameter of 0.3 microns;
- (d) The device is equipped with air pollution controls that capture both particulate mercury and vapor phase mercury;
- (e) The air pollution controls required by §B(3)(d) of this regulation either:
  - (i) Include a High Efficiency Particulate Air (HEPA) filter, a filter using activated carbon, and engineering controls that ensure that exhaust pathways other than those going through the filters are at a negative pressure with respect to air outside the device; or
  - (ii) Capture mercury emissions at least as well as a system that employs the items identified in §B(3)(e)(i) of this regulation;
- (f) The handler operates the device indoors;
- (g) The handler develops and implements a written procedure detailing how to safely crush mercury-containing lamps that includes:
  - (i) A description of the equipment that will be used to crush the lamps;
  - (ii) Requirements to operate and maintain the crushing equipment in accordance with written procedures developed by the manufacturer of the equipment;
  - (iii) Documentation of maintenance of the crushing equipment in accordance with the manufacturer's recommendations; and
  - (iv) Training of operators of crushing equipment in operating procedures, waste handling procedures, and emergency procedures;
- (h) The handler:
  - (i) Stores crushed lamps in closed, nonleaking drums or containers that are in good condition; and
  - (ii) Does not transfer crushed lamps from one container to another;
- (i) The handler manages:
  - (i) The crushed lamps in accordance with the applicable requirements of Regulations .06—.25 of this chapter concerning universal waste lamps; and
  - (ii) Residues, filter media, or other solid waste generated as part of the crushing operation that are not being reclaimed in accordance with applicable requirements of COMAR 26.13.01—26.13.10;

(j) The handler provides the following information in writing to the Department:

(i) The handler's name, address, telephone number, EPA identification number, if any, and the name of a contact person at the handler; and

(ii) The manufacturer and model number of the device that will be used to crush universal waste lamps;

(k) The handler makes the notification required by §B(3)(j) of this regulation by one of the following deadlines:

(i) Before the lamp crushing device is first used, if the device was not in use before November 1, 2002; or

(ii) January 1, 2003, if the device was used before November 1, 2002; and

(l) The handler makes maintenance records required to be kept by §B(3)(g)(iii) of this regulation available to representatives of the Department upon request.

26.13.10.17

## **.17 Small Quantity Handlers of Universal Waste—General Management Standards.**

### **A. Labeling and Marking.**

(1) A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified in §A(2) of this regulation.

(2) A small quantity handler of universal waste shall:

(a) Clearly label or mark each universal waste battery that is not in a container, and each container in which universal waste batteries are being held with one of the following phrases:

(i) "Universal Waste—Battery(ies)";

(ii) "Waste Battery(ies)"; or

(iii) "Used Battery(ies)";

(b) Ensure that each container, multiple-container package unit, tank, transport vehicle or vessel which contains recalled universal waste pesticides, as described in Regulation .08A(1) of this chapter, is clearly labeled or marked with:

(i) The label that was on or accompanied the product as sold or distributed; and

(ii) The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";

(c) Ensure that each container, tank, transport vehicle, or vessel containing unused pesticide products as described in Regulation .08A(2) of this chapter is clearly labeled or marked with:

(i) The label that was on the product when purchased, if the label is still legible;

(ii) The appropriate label as required under the U.S. Department of Transportation regulation, 49 CFR 172, if using the label described by §A(2)(c)(i) of this regulation is not feasible;

(iii) Another label prescribed or designated by the waste pesticide collection program administered or recognized by the State, if using the label described by §A(2)(c)(i) or (ii) of this regulation is not feasible; and

(iv) The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";

(d) Clearly label or mark each universal waste thermostat that is not in a container, and each container in which universal waste thermostats are being held, with one of the following phrases:

(i) "Universal Waste—Mercury Thermostat(s)";

(ii) "Waste Mercury Thermostat(s)"; or

(iii) "Used Mercury Thermostat(s)";

(e) Clearly label or mark each universal waste lamp that is not in a container, and each container or package in which universal waste lamps are being held, with one of the following phrases:

(i) "Universal Waste—Lamp(s)";

(ii) "Waste Lamp(s)"; or

(iii) "Used Lamp(s)"; and

(f) Clearly label or mark each universal waste PCB-containing lamp ballast that is not in a container, and each container or package in which universal waste PCB-containing lamp ballasts are being held, with one of the following phrases:

(i) "Universal Waste—PCB-containing lamp ballast(s)";

(ii) "Waste PCB-containing lamp ballast(s)"; or

(iii) "Used PCB-containing lamp ballast(s)".

#### B. Accumulation Time Limits.

(1) Unless the requirements of §B(2) of this regulation are met, a small quantity handler of universal waste may accumulate universal waste for not longer than 1 year from the date the universal waste is generated, or received from another universal waste handler.

(2) A small quantity handler of universal waste may accumulate universal waste for longer than 1 year from the date the universal waste is generated, or received from another universal waste handler, if:

(a) Accumulation of the universal waste for a period longer than 1 year is solely for the purpose of accumulation of a quantity of universal waste as necessary to facilitate proper recovery, treatment, or disposal; and

(b) The handler can demonstrate, on request of the Department, and to the satisfaction of the Secretary, that accumulation of the universal waste for more than 1 year is solely for the purpose of accumulation of a quantity of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(3) A small quantity handler of universal waste shall:

(a) Be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received; and

(b) Make the demonstration required by §B(3)(a) of this regulation by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received by the handler;

(ii) Marking or labeling each individual item of universal waste, such as each battery or thermostat, with the date the individual item became a waste or was received by the handler;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received by the handler;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received by the handler;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received by the handler; or

(vi) Using any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received by the handler.

C. Employee Training. A small quantity handler of universal waste shall provide the following information to all employees who handle or have responsibility for managing universal waste:

(1) Proper handling procedures for each type of universal waste handled at the facility; and

(2) Emergency procedures appropriate for the types of universal waste handled at the facility.

D. Response to Release.

(1) A small quantity handler of universal waste shall:

(a) Immediately contain all releases of universal wastes and other residues from universal wastes; and

(b) Determine whether any material resulting from a release associated with the management of universal waste is hazardous waste, and if it is, manage the hazardous waste in compliance with all applicable requirements of COMAR 26.13.01—26.13.10.

(2) If a small quantity handler of universal waste has a release of hazardous waste, the handler:

(a) Is considered the generator of the hazardous waste resulting from the release; and

(b) Shall manage the hazardous waste in compliance with COMAR 26.13.03.